

**Cour  
Pénale  
Internationale**



**International  
Criminal  
Court**

Original: English

No.: ICC-02/11-02/11

Date: 6 February 2015

**TRIAL CHAMBER I**

**Before: Judge Geoffrey Henderson, Single Judge**

**SITUATION IN THE REPUBLIC OF CÔTE D'IVOIRE  
IN THE CASE OF  
*THE PROSECUTOR v. CHARLES BLÉ GOUDÉ***

**Public**

**Decision on urgent Defence request for extension of time to respond to joinder request**

**Decision to be notified, in accordance with Regulation 31 of the *Regulations of the Court*, to:**

**The Office of the Prosecutor**

Ms Fatou Bensouda  
Mr James Stewart  
Mr Eric MacDonald

**Counsel for Mr Blé Goudé**

Mr Geert-Jan Alexander Knoops  
Mr Claver N'dry

**Legal Representatives of Victims**

**Legal Representatives of Applicants**

**Unrepresented Victims**

**Unrepresented Applicants for  
Participation/Reparation**

**The Office of Public Counsel for  
Victims**

Ms Paolina Massidda

**The Office of Public Counsel for the  
Defence**

**States' Representatives**

*Amicus Curiae*

**REGISTRY**

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**Registrar**

Mr Herman von Hebel

**Counsel Support Section**

**Victims and Witnesses Unit**

**Detention Section**

**Victims Participation and Reparations  
Section**

**Others**

Mr Emmanuel Altit  
Ms Agathe Bahi Baroan

**Judge Geoffrey Henderson**, acting as Single Judge on behalf of Trial Chamber I (respectively, 'Single Judge' and 'Chamber') of the International Criminal Court ('Court'), in the case of *The Prosecutor v. Charles Blé Goudé* ('Blé Goudé case'), having regard to Regulations 24, 34 and 35 of the Regulations of the Court ('Regulations'), issues the following 'Decision on urgent Defence request for extension of time to respond to joinder request'.

## I. Background and Submissions

1. On 22 December 2014, the Office of the Prosecutor ('Prosecution') requested the Chamber to join the case of *The Prosecutor v. Laurent Gbagbo* ('Gbagbo case') and the *Blé Goudé* case ('Joinder Request').<sup>1</sup>
2. On 6 January 2015, the Single Judge in the *Gbagbo* case extended the deadline for any response to the *Gbagbo* Joinder Request to 21 days from notification of its French translation, as well as the French translation of the 'Decision on the confirmation of charges against Charles Blé Goudé'<sup>2</sup> ('Blé Goudé Confirmation Decision').<sup>3</sup> On the same day, the Chamber granted the same extension for any response to the Joinder Request in the *Blé Goudé* case ('First Extension').<sup>4</sup> In doing so, the Chamber noted that new counsel for Mr Blé Goudé, once appointed, would also benefit from this extension of time, given that they would otherwise have a limited period, if any, in which to

<sup>1</sup> Prosecution's Request to join the cases of *The Prosecutor v. Laurent GBAGBO* and *The Prosecutor v. Charles BLÉ GOUDÉ*, 22 December 2014, ICC-02/11-02/11-194, with public annex. See also *The Prosecutor v. Laurent Gbagbo*, Prosecution's Request to join the cases of *The Prosecutor v. Laurent Gbagbo* and *The Prosecutor v. Charles Blé Goudé*, 16 December 2014, ICC-02/11-01/11-738, with public annex ('Gbagbo Joinder Request').

<sup>2</sup> Pre-Trial Chamber I, Decision on the confirmation of charges against Charles Blé Goudé, 11 December 2014, ICC-02/11-02/11-186 ('Blé Goudé Confirmation Decision'). See also partly dissenting opinion of Judge Van den Wyngaert, ICC-02/11-02/11-186-Anx.

<sup>3</sup> *The Prosecutor v. Laurent Gbagbo*, Decision on the Defence challenge to the Chamber's competence to hear the Prosecution's Joinder Request and on its request for a variation of the response deadline, 6 January 2015, ICC-02/11-01/11-744, page 6.

<sup>4</sup> Decision on 'Counsel's request to withdraw pursuant to Regulation 78(1) of the Regulations of the Court' and extension of deadline for response, 6 January 2015, ICC-01/11-02/11-197 ('Withdrawal of Counsel Decision'), para. 12.

prepare a response to the Joinder Request before the expiry of the applicable deadline under Regulation 24 of the Regulations.<sup>5</sup>

3. On 7 and 13 January 2015, respectively, Mr Geert-Jan Alexander Knoops ('Lead Counsel') and Mr Claver N'dry ('Co-Counsel') were appointed.<sup>6</sup>
4. The French versions of the *Blé Goudé* Confirmation Decision and *Gbagbo* Joinder Request were notified, respectively, on 20<sup>7</sup> and 21<sup>8</sup> January 2015.
5. On 26 January 2015, the defence for Mr Blé Goudé ('Defence') filed an urgent request seeking, *inter alia*, an extension of time of at least 30 days from the completion of a requested six month 'study period' to respond to the Joinder Request ('Defence Request')<sup>9</sup> for two reasons: (1) the heavy workload confronting Lead Counsel in composing a new team and familiarising himself with two cases; and (2) the need for time and resources to adequately respond to the Joinder Request which raises complex issues.<sup>10</sup> The Defence argues that its team, at the time the Defence Request was filed, consisted of Lead Counsel and Co-Counsel who, after their respective appointments on 7 and 13 January 2015, were only given Ringtail access codes on 12 and 14 January 2015, respectively.<sup>11</sup> Although Lead Counsel was appointed as *pro bono* counsel on 8 September 2014, the Defence submits that

<sup>5</sup> Withdrawal of Counsel Decision, ICC-01/11-02/11-197, para. 11.

<sup>6</sup> Notification of the appointment of counsel for Mr Charles Blé Goudé, 9 January 2015, ICC-02/11-02/11-198, with six public annexes and one confidential annex; Information on appointment of defence team members and provision of technical assistance, 4 February 2015, ICC-02/11-02/11-208, with once confidential annex and two public annexes; *see also* Urgent Defence submissions on the need to have adequate time and facilities to prepare for trial and extension of time to respond to joinder request, 26 January 2015, ICC-02/11-02/11-201, with confidential annexes 1-4, para. 13.

<sup>7</sup> ICC-02/11-02/11-186-tFRA.

<sup>8</sup> ICC-02/11-01/11-738-tFRA.

<sup>9</sup> Urgent Defence submissions on the need to have adequate time and facilities to prepare for trial and extension of time to respond to joinder request, 26 January 2015, ICC-02/11-02/11-201, with confidential annexes 1-4, paras 23, 43-44 and 47(b). The Chamber notes that, at paragraph 23, the Defence appears to be requesting an extension of time of 30 days from the completion of a requested six month 'study period' of the case. However, at paragraph 43 and in the relief sought at paragraph 47 (b), the Defence appears to request for an extension of time of 30 days running from the time the Chamber may have *granted* it with an extension of time to first study the material in the *Gbagbo* and *Blé Goudé* case. The Chamber has adopted the former interpretation of the Defence Request.

<sup>10</sup> Defence Request, ICC-02/11-02/11-201, paras 40-41 and 43-44.

<sup>11</sup> Defence Request, ICC-02/11-02/11-201, paras 13, 25 and 43.

- he had 'absolutely no access' to the case materials, except the document containing the charges.<sup>12</sup> The Defence further submits that it currently faces the 'time consuming burden' of appointing and training team members.<sup>13</sup> Overall, it claims that it faces a 'momentous task' in familiarising itself with two cases that are voluminous and complex.<sup>14</sup>
6. On 28 January 2015, the Single Judge ordered that any responses to the Defence Request be filed by 2 February 2015.<sup>15</sup> On 30 January 2015, the Single Judge granted a Prosecution request<sup>16</sup> for an extension of time, ordering the Prosecution and Legal Representative of Victims ('LRV') to file any responses to the Defence Request by 4 February 2015.<sup>17</sup>
  7. On 3 and 5 February 2015, in accordance with the Chamber's instructions,<sup>18</sup> the Registry informed the Chamber, parties and participants that Co-Counsel was appointed as a legal assistant to the Defence on 19 August 2014, and that he and Lead Counsel were assigned access to eCourt applications (TRIM and Ringtail) between August and October 2014.<sup>19</sup> The Registry further clarified that, although access had been assigned, Lead Counsel and

<sup>12</sup> Defence Request, ICC-02/11-02/11-201, para. 25. *See also* para. 13.

<sup>13</sup> Defence Request, ICC-02/11-02/11-201, paras 26 and 39.

<sup>14</sup> Defence Request, ICC-02/11-02/11-201, paras 29, 40 and 43.

<sup>15</sup> Order reducing the time limit to file responses to ICC-02/11-02/11-201, ICC-02/11-02/11-202, para. 5 and page 5. The Single Judge ordered further that any responses to the remainder of the requests included in filing ICC-02/11-02/11-201 be made in the context of the submissions prior to and during the status conference scheduled on 13 February 2015.

<sup>16</sup> Prosecution's urgent Request for an extension of time to file its response to Defence Request ICC-02/11-02/11-201 and Chamber's orders ICC-02/11-02/11-200 and ICC-02/11-02/11-202, 29 January 2015, ICC-02/11-02/11-203.

<sup>17</sup> Decision on Prosecution request for extension of time and on the response deadline for ICC-02/11-02/11-204, 30 January 2015, ICC-02/11-02/11-205, para. 9 and page 6.

<sup>18</sup> *See* Email from Prosecution to Trial Chamber I on 2 February 2015 at 16:37; Email from Trial Chamber I Legal Officer to Registry on 2 February 2015 at 17:44; *see also* Email from Trial Chamber I Legal Officer instructing the Registry to file the information in the record of the case, 3 February 2015 at 18:17.

<sup>19</sup> Email from Registry to Trial Chamber I, parties and participants on 3 February 2015 at 16:04 and 16:22; Information on appointment of defence team members and provision of technical assistance, 4 February 2015, ICC-02/11-02/11-208, with one confidential annex and two public annexes.

Co-Counsel did not actually access Ringtail until 14 and 28 January 2015, respectively.<sup>20</sup>

8. On 4 February 2015, the Prosecution filed its response to the Defence Request.<sup>21</sup> It submits that the Defence Request wrongly assumes that the Defence must be fully acquainted with the complete record of both the *Gbagbo* and *Blé Goudé* cases and that the Defence is already in a position to adequately respond to the Joinder Request.<sup>22</sup> The Prosecution submits that the Joinder Request is a confined motion and concerns a preliminary procedural matter.<sup>23</sup> It highlights that both Lead Counsel and Co-Counsel have been members of the Defence team, with access to the case record, including the document containing the charges, list of evidence and disclosed material, since before the confirmation proceedings.<sup>24</sup> Further, the Prosecution submits that Lead Counsel and Co-Counsel have demonstrated ‘sound knowledge’ of the *Blé Goudé* case, as well as the charges in the *Gbagbo* case, through their presence at, and participation in, the confirmation hearing.<sup>25</sup> Finally, the Prosecution submits that the Chamber will fully protect Mr Blé Goudé’s rights ‘irrespective of a prompt joinder of the cases’.<sup>26</sup>
9. Also on 4 February 2015, the LRV responded to the Defence Request, submitting that the Defence fails to show good cause for an extension which she claims is also disproportionate.<sup>27</sup> The LRV argues that the Chamber has

<sup>20</sup> Information on appointment of defence team members and provision of technical assistance, 4 February 2015, ICC-02/11-02/11-208, with one confidential annex and two public annexes, para. 8.

<sup>21</sup> Prosecution’s consolidated response to the Defence application for an extension of time to respond to the Prosecution’s request for a joinder of proceedings and to the Defence request to adjourn the status conference scheduled on 13 February 2015, 4 February 2015, ICC-02/11-02/11-207 (‘Prosecution Response’).

<sup>22</sup> Prosecution Response, ICC-02/11-02/11-207, paras 2, 16-18 and 25-26.

<sup>23</sup> Prosecution Response, ICC-02/11-02/11-207, paras 18-20.

<sup>24</sup> Prosecution Response, ICC-02/11-02/11-207, paras 2, 16, 22 and 24-25.

<sup>25</sup> Prosecution Response, ICC-02/11-02/11-207, paras 2, 16 and 23-24.

<sup>26</sup> Prosecution Response, ICC-02/11-02/11-207, para. 21.

<sup>27</sup> Consolidated response to the Defence’s submission requesting an extension of time to file a response to the Prosecution’s joinder request (ICC-02/11-02/11-201) and to the Defence’s request to postpone the status

already taken into account the arguments made in the Defence Request when initially granting the Defence an extension of time to respond to the Joinder Request, thereby safeguarding the rights of the Defence.<sup>28</sup> She emphasises that Lead Counsel and Co-Counsel, who have had access to the case record for more than four months, are familiar with the case, the accused, the Court's legal texts and proceedings.<sup>29</sup> The LRV claims further that the 12-page Joinder Request clearly identifies the crucial issues.<sup>30</sup> Finally, she stresses that the victims have a right to expeditious proceedings and that the Chamber, parties and participants will be able to efficiently prepare for trial once a decision is made on the Joinder Request.<sup>31</sup>

## II. Analysis

10. The Single Judge notes that the First Extension (amounting to 30 days) lead to the 12 February 2015 deadline, which will be 36 days after Lead Counsel was appointed and 52 days after the Joinder Request was filed. The Defence appears to seek a further seven-month extension based on a speculative date, namely the date on which it finishes any 'study period' granted by the Chamber. The Single Judge notes that the Defence, in order to support its request, claims the need of time to 'study' the case record in both the *Blé Goudé* and *Gbagbo* cases, the complexity of these two cases, and the burden of recruiting and training a new team.

11. In particular, the Single Judge has considered the Defence assertion that Lead Counsel and Co-Counsel are newly appointed, only recently had access to the case material and are the only members of the Defence team. The Single Judge notes in this regard that Lead Counsel and Co-Counsel

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conference schedule for 13 February 2015 (ICC-02/11-02/11-204), 4 February 2015, ICC-02/11-02/11-206 ('LRV Response'), paras 11, 13, 18 and 20.

<sup>28</sup> LRV Response, ICC-02/11-02/11-206, paras 12 and 14-15.

<sup>29</sup> LRV Response, ICC-02/11-02/11-206, paras 16-17 and 20-21.

<sup>30</sup> LRV Response, ICC-02/11-02/11-206, para. 21.

<sup>31</sup> LRV Response, ICC-02/11-02/11-206, paras 19 and 22-23.

have been involved with the Defence team of Mr Blé Goudé for more than four months. Before being appointed to their current positions in January 2015, Lead Counsel was appointed as *pro bono* counsel on 8 September 2014<sup>32</sup> and Co-Counsel was appointed as a legal assistant on 19 August 2014.<sup>33</sup> Their involvement with the Defence therefore commenced prior to the start of the confirmation of charges hearing. Both were assigned access and login details for TRIM and Ringtail between August and October 2014.<sup>34</sup> Lead Counsel and Co-Counsel also attended and actively participated in the confirmation of charges hearing.<sup>35</sup> Furthermore, according to the Registry's filing of 5 February 2015, it appears that the Defence team as currently constituted consists of seven members.<sup>36</sup>

12. The Single Judge therefore considers that good cause has not been shown, as required by Regulation 35(2) of the Regulations, for an extension of 30 days from the conclusion of any 'study period' to respond to the Joinder Request.
13. Nevertheless, the Single Judge has already acknowledged the 'crucial importance of the issue [of joinder] and the potential impact the Chamber's decision could have on the conduct of proceedings and the rights of the accused'.<sup>37</sup> He further notes that, since appointment of Lead Counsel and Co-Counsel, the Defence has been devoting time to recruit its team and train

<sup>32</sup> Enregistrement de la désignation et de la prestation de serment de Maître Geert-Jan Alexander Knoops en qualité de conseil adjoint dans l'équipe de la défense de M. Charles Blé Goudé, 9 September 2014, ICC-01/11-02/11-147 ; *see also* Defence Request, ICC-02/11-02/11-201, para. 25.

<sup>33</sup> Information on appointment of defence team members and provision of technical assistance, 4 February 2015, ICC-02/11-02/11-208, with once confidential annex and two public annexes, para. 5.

<sup>34</sup> The Single Judge acknowledges that Lead Counsel and Co-Counsel did not access Ringtail until 14 and 28 January 2015, respectively. *See* Information on appointment of defence team members and provision of technical assistance, 4 February 2015, ICC-02/11-02/11-208, with once confidential annex and two public annexes, para. 8.

<sup>35</sup> ICC-02/11-02/11-T-6-Red-ENG, page 35, line 8 to page, 45, line 13 and page 45, line 21 to page 61, line 12; *see also* Prosecution Response, ICC-02/11-02/11-207, paras 8 and 23-24.

<sup>36</sup> Information on appointment of defence team members and provision of technical assistance, 4 February 2015, ICC-02/11-02/11-208, with once confidential annex and two public annexes, para. 4.

<sup>37</sup> *The Prosecutor v. Laurent Gbagbo*, Decision on Defence challenge to the Chamber's competence to hear the Prosecution's Joinder Request and on its request for a variation of the response deadline, 6 January 2015, ICC-02/11-01/11-744, para. 10; *see also* Order scheduling a status conference and setting a provisional agenda, 23 January 2015, ICC-02/11-02/11-200, para. 5.



in eCourt applications.<sup>38</sup> The Single Judge therefore considers that an extension of seven days, to 19 February 2015, is exceptionally warranted. The Single Judge considers this to be consistent with the obligation to ensure a fair and expeditious trial under Article 64(2) of the Statute.

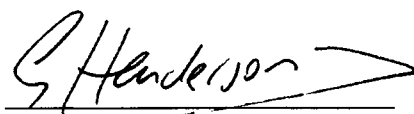
**FOR THE FOREGOING REASONS, THE SINGLE JUDGE HEREBY**

**REJECTS** the Defence Request for an extension of time of 30 days from the conclusion of any 'study period' to respond to the Joinder Request;

**GRANTS** an exceptional extension of time of 7 days to respond to the Joinder Request; and

**ORDERS** the Defence to file any response to the Joinder Request by 19 February 2015.

Done in both English and French, the English version being authoritative.



**Judge Geoffrey Henderson, Single Judge**

Dated 6 February 2015

At The Hague, The Netherlands

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<sup>38</sup> Defence Request, ICC-02/11-02/11-201, paras 26, 40.